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ADDITIONAL COMMENT SOUGHT ON RULES GOVERNING TELEPHONE COMPANIES' USE OF CUSTOMER PROPRIETARY NETWORK INFORMATION

CC Docket No. 90-623✓
CC Docket No. 92-256✓

Released: March 10, 1994

Customer proprietary network information, or CPNI, encompasses any information about customers' network services and their use of those services that a telephone company possesses because it provides those network services.¹ The Commission has in place rules that govern the Bell Operating Companies' (BOCs) use of CPNI in marketing enhanced services and customer premises equipment (CPE). These CPNI rules for enhanced services are the subject of reconsideration petitions in the Computer III Remand Order proceeding, CC Docket No. 90-623. In this public notice, we seek comment on customers' CPNI-related privacy expectations, and whether any changes in our rules are required to achieve the best balance between customer's privacy interests, competitive equity, and efficiency.

Under the current rules, any customer can request that its CPNI be withheld from the BOCs' enhanced services and CPE marketing personnel, although such personnel are generally allowed to make use of CPNI without prior customer authorization. Prior authorization is required only before BOC enhanced services marketing personnel are given access to the CPNI of customers with more than twenty lines. Third parties, such as independent enhanced services providers, must obtain advance authorization from the customer in order to obtain access to CPNI. The Commission's rules also require that the BOCs provide an annual written notice of CPNI rights to multiline business customers.² At present these

¹ See Filing and Review of Open Network Architecture Plans, 4 FCC Rcd 1, 215 (1988).

² See Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, CC Docket No. 90-623, 6 FCC Rcd 7571, 7605-14 (1991) (Computer III Remand Order); Furnishing of Customer Premises Equipment by the Bell Operating Telephone Companies and the Independent Telephone

rules do not apply to independent telephone companies, but the Commission has decided to apply them to GTE in its provision of enhanced services.³

The CPNI rules, developed and refined over a period of several years, are designed to balance considerations of customer privacy, efficiency, and competitive equity. In the past, the Commission has concluded that customers' expectations of privacy could be met without a notification obligation or a prior authorization requirement for internal BOC use of residential and small business customers' CPNI.⁴ In the most recent order addressing CPNI, the Commission concluded that a prior authorization rule would as a practical matter deny to all but the largest business customers the one-stop-shopping benefits of integrated marketing of basic and enhanced services by BOCs.⁵ The Commission also concluded that to the extent that access to CPNI is limited to employees of a single integrated company, this did not generally raise significant privacy concerns.⁶ The Commission reaffirmed that, although privacy issues are raised by disclosure of CPNI to third parties outside the BOC, the CPNI rules have always protected against such disclosure.⁷

In recent months, however, local telephone companies have planned and entered into a number of alliances, acquisitions, and

Companies, CC Docket No. 86-79, 2 FCC Rcd 143, 152-153 (1987).

³ In the Matter of Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, Report and Order, CC Docket No. 92-256 (adopted March 8, 1994).

⁴ See, e.g., Amendment of Section 64.502 of the Commission's Rules and Regulations (Third Computer Inquiry), CC Docket No. 85-229, 2 FCC Rcd 3035, ¶ 164 (1987) (notification requirement limited to multiline business customers); see also Computer III Remand Order 6 FCC Rcd 7571, n.159 (1991) (prior authorization required for customers with more than twenty lines; more extensive prior authorization requirement found not necessary to protect customers' privacy interests).

⁵ Computer III Remand Order at 7610 and n.155.

⁶ The Commission's CPNI rules allow the BOCs to provide CPE and enhanced services under various forms of business organization. BOCs may utilize customer CPNI to jointly market enhanced services and CPE with these forms of business organization, consistent with other requirements of the Commission's CPE, ONA, and CPNI rules. Computer III Phase I Further Reconsideration Order, 3 FCC Rcd 1135, 1139 (1988) at para. 33.

⁷ Id. at 7612, n.159.

mergers with non-telephone company partners. In this changing environment, access to CPNI among affiliated companies may raise additional privacy concerns. In recognition of these changes, we now seek further comment from the public on whether the existing CPNI safeguards will continue in the future to strike the best balance between customers' privacy interests, competitive equity, and efficiency. In assessing the CPNI rules that best achieve this balance, parties should comment specifically on the issue of residential and small business customers' CPNI-related privacy expectations, and on whether the rules should apply to LECs other than the BOCs and GTE. In addition, parties recommending a change in the CPNI rules governing the provision of enhanced services should discuss whether their proposed rules should also apply to the provision of CPE.

Interested parties are to file comments by **April 11, 1994** and reply comments by **May 2, 1994** with the Secretary, FCC, 1919 M Street, N.W., Washington, D.C. 20554. A copy should also be sent to Rose M. Crellin, Common Carrier Bureau, FCC, Room 544, 1919 M Street, N.W., Washington, D.C. 20554, and to the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

For further information, contact Rose M. Crellin, Policy and Program Planning Division of the Common Carrier Bureau, at (202) 632-1292.

Action by the Commission on March 9, 1994.

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